

AMENDED IN SENATE JUNE 21, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1846

**Introduced by Assembly Member V. Manuel Perez
(Coauthors: Assembly Members Blakeslee, Chesbro, Hill, Huffman,
and Skinner)**

February 12, 2010

An act to amend Sections 21159, 21159.1, and 21159.4 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1846, as amended, V. Manuel Perez. Environment: expedited environmental review: climate change regulations.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA requires specified state agencies to perform, at the time of adoption of a rule or regulation requiring the installation of pollution

control equipment or a performance standard or treatment requirement, an environmental analysis of the reasonably foreseeable methods of compliance. CEQA authorizes the use of a focused environmental impact report for a project that consists solely of the installation of pollution control equipment required by the specified state agencies.

This bill would additionally require that the above environmental analysis be performed for a rule or regulation that requires the installation of pollution control equipment or a performance standard or treatment requirement adopted pursuant to the California Global Warming Solutions Act of 2006, including those for rules and regulations *requiring the installation of pollution control equipment* adopted by the ~~California Energy~~ *State Energy Resources Conservation and Development* Commission and the California Public Utilities Commission. The bill would authorize the use of the focused environmental impact report for a project *that consists solely of the installation of pollution control equipment or other components that are necessary to complete the installation of that equipment* that reduces greenhouse gas emissions in compliance with a rule or regulation adopted pursuant to the California Global Warming Solutions Act of 2006.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 measure to conform and clarify existing law. This measure is not
3 intended to supersede existing law.
4 SEC. 2. Section 21159 of the Public Resources Code is
5 amended to read:
6 21159. (a) An agency listed in Section 21159.4 shall perform,
7 at the time of the adoption of a rule or regulation requiring the
8 installation of pollution control equipment, or a performance
9 standard or treatment requirement, including a rule or regulation
10 that requires the installation of pollution control equipment or a
11 performance standard or treatment requirement pursuant to the
12 California Global Warming Solutions Act of 2006 (Division 25.5
13 (commencing with Section 38500) of the Health and Safety Code),
14 an environmental analysis of the reasonably foreseeable methods
15 of compliance. In the preparation of this analysis, the agency may

1 utilize numerical ranges or averages where specific data is not
2 available; however, the agency shall not be required to engage in
3 speculation or conjecture. The environmental analysis shall, at
4 minimum, include all of the following:

5 (1) An analysis of the reasonably foreseeable environmental
6 impacts of the methods of compliance.

7 (2) An analysis of reasonably foreseeable feasible mitigation
8 measures.

9 (3) An analysis of reasonably foreseeable alternative means of
10 compliance with the rule or regulation.

11 (4) For a rule or regulation *that requires the installation of*
12 *pollution control equipment* adopted pursuant to the California
13 Global Warming Solutions Act of 2006 (Division 25.5
14 (commencing with Section 38500) of the Health and Safety Code),
15 the analysis shall also include reasonably foreseeable greenhouse
16 gas emission impacts of the methods of compliance identified as
17 ~~required by this section~~ *compliance with the rule or regulation*.

18 (b) The preparation of an environmental impact report at the
19 time of adopting a rule or regulation pursuant to this division shall
20 be deemed to satisfy the requirements of this section.

21 (c) The environmental analysis shall take into account a
22 reasonable range of environmental, economic, and technical factors,
23 population and geographic areas, and specific sites.

24 (d) This section does not require the agency to conduct a
25 project-level analysis.

26 (e) For purposes of this article, the term “performance standard”
27 includes process or raw material changes or product reformulation.

28 (f) This section is not intended, and may not be used, to delay
29 the adoption of any rule or regulation for which an analysis is
30 required to be performed pursuant to this section.

31 SEC. 3. Section 21159.1 of the Public Resources Code is
32 amended to read:

33 21159.1. (a) A focused environmental impact report may be
34 utilized if a project meets all of the following requirements:

35 ~~(1) The project, including a project that reduces greenhouse~~
36 ~~gases to comply with a rule or regulation adopted pursuant to the~~
37 ~~California Global Warming Solutions Act of 2006 (Division 25.5~~
38 ~~(commencing with Section 38500) of the Health and Safety Code),~~
39 ~~consists solely of the installation of pollution~~

1 (1) *The project consists solely of the installation of either of the*
2 *following:*

3 (A) *Pollution control equipment required by a rule or regulation*
4 *of an agency listed in subdivision (a) of Section 21159.4 and other*
5 *components necessary to complete the installation of that*
6 *equipment.*

7 (B) *Pollution control equipment and other components necessary*
8 *to complete the installation of that equipment that reduces*
9 *greenhouse gases required by a rule or regulation of an agency*
10 *listed in Section 21159.4 pursuant to the California Global*
11 *Warming Solutions Act of 2006 (Division 25.5 (commencing with*
12 *Section 38500) of the Health and Safety Code).*

13 (2) The agency certified an environmental impact report on the
14 rule or regulation or reviewed it pursuant to a certified regulatory
15 program, and, in either case, the review included an assessment
16 of growth inducing impacts and cumulative impacts of, and
17 alternatives to, the project.

18 (3) The environmental review required by paragraph (2) was
19 completed within five years of certification of the focused
20 environmental impact report.

21 (4) An environmental impact report is not required pursuant to
22 Section 21166.

23 (b) The discussion of significant effects on the environment in
24 the focused environmental impact report shall be limited to
25 project-specific potentially significant effects on the environment
26 of the project that were not discussed in the environmental analysis
27 of the rule or regulation required pursuant to subdivision (a) of
28 Section 21159. A discussion of growth-inducing impacts or
29 cumulative impacts shall not be required in the focused
30 environmental impact report, and the discussion of alternatives
31 shall be limited to a discussion of alternative means of compliance,
32 if any, with the rule or regulation.

33 SEC. 4. Section 21159.4 of the Public Resources Code is
34 amended to read:

35 21159.4. (a) This article shall apply to all of the following
36 agencies:

37 (1) The State Air Resources Board.

38 (2) A district as defined in Section 39025 of the Health and
39 Safety Code.

40 (3) The State Water Resources Control Board.

- 1 (4) ~~The~~ A California regional water quality control board.
- 2 (5) The Department of Toxic Substances Control.
- 3 (6) The Department of Resources Recycling and Recovery.
- 4 (b) This article shall apply to the ~~California Energy~~ *State Energy*
- 5 *Resources Conservation and Development* Commission and the
- 6 California Public Utilities Commission for rules and regulations
- 7 *requiring the installation of pollution control equipment* adopted
- 8 pursuant to the California Global Warming Solutions Act of 2006
- 9 (Division 25.5 (commencing with Section 38500) of the Health
- 10 and Safety Code).